



General Assembly

February Session, 2006

Raised Bill No. 5181

LCO No. 1493

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Referred to Committee on General Law

Introduced by:
(GL)

AN ACT CONCERNING PREPAID FUNERAL CONTRACTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 42-200 of the 2006 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2006*):

4 (a) For the purposes of this section and sections 42-201 to 42-206c,
5 inclusive, as amended, "funeral service contract" means a contract
6 which requires the payment of money or the delivery of securities in
7 exchange for the final disposition of a dead human body, including
8 funeral, burial or other services, or the furnishing of personal property
9 or funeral merchandise in connection with any such disposition,
10 wherein the use or delivery of such services, property or merchandise
11 is not required immediately, "beneficiary" means the person for whom
12 the goods or services purchased in a funeral service contract are to be
13 provided, and "purchaser" means the person who signs the funeral
14 service contract as the beneficiary or on behalf of a beneficiary.

15 (b) A funeral service contract shall be in writing and shall contain
16 the following:

17 (1) The name, address, telephone number and Social Security
18 number of the beneficiary and the purchaser;

19 (2) The name, address, telephone number and license number of the
20 funeral director for the funeral service establishment providing the
21 goods or services;

22 (3) A list of the selected goods or services, if any;

23 (4) The amount of funds paid or to be paid by the purchaser for
24 such contract, the method of payment and a description of how such
25 funds will be invested and how such investments are limited to those
26 authorized pursuant to subsection (c) of section 42-202, as amended by
27 this act;

28 (5) A description of any price guarantees by the funeral service
29 establishment or, if there are no such guarantees, a specific statement
30 that the contract contains no guarantees on the price of the goods or
31 services contained in the contract;

32 (6) The name and address of the escrow agent designated to hold
33 the prepaid funeral services funds;

34 (7) A written representation, in clear and conspicuous type, that the
35 purchaser and the beneficiary should receive a notice from the escrow
36 agent acknowledging receipt of the deposit within ten days of receipt
37 of such deposit;

38 (8) A description of any fees to be paid from the escrow account to
39 the escrow agent or any third party provider;

40 (9) A description of the ability of the purchaser or the beneficiary to
41 cancel a revocable funeral service contract and the effect of cancelling
42 such contract;

43 (10) For irrevocable contracts, a description of the ability of the
44 beneficiary to transfer such contract to another funeral home;

45 (11) The signature of the purchaser or authorized representative and
46 the licensed funeral director of the funeral service establishment.

47 (c) The funeral service establishment shall maintain a copy of all
48 funeral service contracts entered into or assigned to such establishment
49 and a list of each escrow account established pursuant to such
50 contracts. Such list shall include the name and address of the escrow
51 agent, the amount of funds deposited with such agent and the name
52 and address of the purchaser of the funeral services contract. Such
53 establishment shall disclose such information, upon request, to the
54 Commissioner of Public Health, the Commissioner of Consumer
55 Protection or the Attorney General.

56 (d) The funeral service establishment shall notify the purchaser and
57 beneficiary of each prepaid funeral contract with such establishment
58 not later than ten days after any transfer of more than a fifty per cent
59 ownership share of such establishment to another person or of the
60 closure of such establishment.

61 Sec. 2. Section 42-202 of the general statutes is repealed and the
62 following is substituted in lieu thereof (*Effective October 1, 2006*):

63 (a) A licensed funeral service establishment shall deposit any money
64 or securities which such establishment receives pursuant to a funeral
65 service contract, and [within] not later than fifteen days [of] after its
66 receipt of such money or securities, in one or more escrow accounts
67 established in accordance with the provisions of this section. Not later
68 than ten days after the deposit of such money or securities, the escrow
69 agent shall notify the purchaser and the beneficiary, in writing, of the
70 agent's receipt of such deposit and the amount of such deposit. Such
71 escrow agent shall notify the purchaser and beneficiary of any transfer
72 of such funds or securities, except when such transfer is to pay for
73 services as required by the funeral service contract. Such funds or
74 securities shall not be transferred to an insurance contract without
75 disclosure to the purchaser and the beneficiary by the funeral director
76 of all fees and costs associated with such insurance contract and

77 without obtaining the written consent of the purchaser and beneficiary
78 to such transfer.

79 (b) Each escrow account established pursuant to this section shall be
80 administered and maintained by an escrow agent. The funeral service
81 establishment which deposits money or securities in such escrow
82 account shall appoint such agent who shall be one of the following: (1)
83 A national banking association; (2) a state bank and trust company; (3)
84 a federal or state chartered savings bank; (4) a federal or state
85 chartered savings and loan association; (5) a licensed insurance
86 company; [,] or (6) a registered broker-dealer. No such institution shall
87 be appointed as an agent unless such institution is authorized by law
88 to act as an escrow agent.

89 (c) Assets held in escrow accounts established pursuant to this
90 section shall be invested in one or more of the following: (1) Deposit
91 accounts insured by the Federal Deposit Insurance Corporation; (2)
92 accounts insured against loss of principal by an agency or
93 instrumentality of the United States government; (3) bonds in which
94 savings banks in this state may, by law, invest; (4) bonds of the United
95 States or any agency thereof or of this state or any municipality of this
96 state; [or] (5) insurance contracts with an insurance company licensed
97 by the state of Connecticut to offer such contracts and maintaining not
98 less than a B plus rating for financial security by A.M. Best; or (6) any
99 other deposit account [, insurance contract,] or security of a quality,
100 safety and expense comparable to those set forth in this subsection.

101 (d) All interest, dividends and other income earned on the amounts
102 deposited in an escrow account pursuant to this section shall be
103 retained in such escrow account and credited, less any administration
104 expenses, to the respective interests of those persons for whose benefit
105 the escrow account is maintained. Amounts in an escrow account shall
106 be removed from such account only as provided in sections 42-200 to
107 42-206, inclusive, as amended. Each party to a funeral service contract
108 shall receive an annual statement of the amount credited to such

109 party's escrow account. Such statement shall include the name and
110 address of the escrow agent.

111 (e) If a purchaser of funeral services, property or merchandise
112 defaults in making payments required under the terms of such
113 contract, or if the purchaser or the person responsible for making
114 funeral arrangements for a deceased beneficiary fails to have the
115 funeral service establishment provide services, the funeral service
116 establishment may retain any origination fee and any costs actually
117 and reasonably incurred by such establishment in the performance of
118 the contract as liquidated damages, provided the sum of the amount
119 retained as an origination fee and the amount retained to pay for costs
120 incurred by the funeral establishment in the performance of the
121 contract shall not exceed an amount equal to five per cent of the
122 amount in the escrow account at the time the purchaser of funeral
123 services defaults in making such payments. The balance of any amount
124 remaining in the escrow account shall be paid to such purchaser upon
125 request.

126 (f) A person, firm or corporation licensed in accordance with the
127 provisions of chapter 385 which enters into a funeral service contract
128 shall furnish the agent of an escrow account established in accordance
129 with the provisions of this section with the name of the purchaser of
130 such services, property or merchandise, the address and name of the
131 beneficiary of the funeral service contract and the amount contracted
132 for, together with a copy of the contract listing the services, personal
133 property or merchandise to be furnished by the funeral service
134 establishment. Nothing in this section shall prohibit the commingling
135 within an escrow account of the money or securities received under
136 more than one funeral service contract for the purpose of management
137 and investment of funds in such escrow account.

138 (g) A funeral service contract shall provide that, if the particular
139 merchandise provided for in the contract is not available at the time of
140 death, the funeral service establishment shall furnish merchandise

141 similar in style and at least equal in quality of material and
142 workmanship to the merchandise provided for in the contract.

143 Sec. 3. Section 42-207 of the general statutes is repealed and the
144 following is substituted in lieu thereof (*Effective October 1, 2006*):

145 An irrevocable funeral contract may be entered into in which the
146 amount held in escrow may be disbursed only upon the death of the
147 beneficiary, provided such a contract does not exceed five thousand
148 four hundred dollars and all interest accumulates to the escrow
149 account and is inaccessible to the beneficiary. Such irrevocable funeral
150 contracts may be transferred from one funeral service establishment to
151 another upon request of the beneficiary. The purchase of an
152 irrevocable funeral contract shall not preclude an individual from
153 purchasing other funeral contracts that are revocable, provided any
154 such revocable funeral contracts purchased by a Medicaid beneficiary
155 may be revoked only upon written notice by the Medicaid beneficiary
156 to the Commissioner of Social Services.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2006</i>	42-200
Sec. 2	<i>October 1, 2006</i>	42-202
Sec. 3	<i>October 1, 2006</i>	42-207

Statement of Purpose:

To require specific information to be contained in all prepaid funeral contracts, to require escrow agents to make receipt acknowledgements and notifications regarding transfers of escrow funds, to require funeral homes to maintain written lists of escrow accounts, to authorize the placement of escrow funds in life insurance contracts, subject to certain provisions, and to require notification to beneficiaries upon transfer of a prepaid funeral contract to another funeral home.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]